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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,879	04/12/2005	Valdeon Sozo	04304/0202465-USO	4126
7278 7590 04/29/2008 DARBY & DARBY P.C. P.O. BOX 770 Church Street Station New York, NY 10008-0770				
EXAMINER ST CLAIR, ANDREW D				
ART UNIT		PAPER NUMBER		
3749				
MAIL DATE		DELIVERY MODE		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/525,879

Applicant(s)

SOZO ET AL.

Examiner

ANDREW ST CLAIR

Art Unit

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/88)
Paper No(s)/Mail Date 2/23/2005
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 1, the claim language is highly indefinite. First, the claim is not written in the traditional format having a preamble, transitional phrase followed by a colon, and a claim body. The claim begins by reciting "A shelf arrangement for ovens *of the type comprising cabinet* provided with...", and then goes on to recite various structure; this format makes it unclear what is claimed and what is recited merely as a description of the "type" of shelf arrangement. In other words, it is unclear whether applicant claims all of the subsequent structure, or claims only a shelf arrangement of that general "type."

Various "rails" are referred to throughout the claims with interchanging terminology and antecedent basis problems, first introduced as "rails on which is slidingly seated...", then referred to as "the respective rails," then apparently introduced again as "a pair of rails," then referred to again as "each rail." It is unclear whether each recitation refers to the same rails, how many rails are claimed, and which rails are modified by various language. For instance, when claiming "each rail comprising a first horizontal extension...", does this limit the "rails on which is slidingly seated," "the respective rails," "a pair of rails," or any combination of those? All structure should be clearly and consistently referred to and be supported by antecedent basis. If a

structural element is introduced as "an elongated widget assembly," it should subsequently be referred to only as "the elongated widget assembly" or "said electronic widget assembly," never "the assembly," "said widget," "respective elongated widget assemblies," "a pair of elongated widget assemblies," etc. Truncated or interchanging terminology creates uncertainty as to which language constitutes a new component and which refers back to previously introduced components. See MPEP 2173.05(e).

Both of the terms "cabinet," "front opening" and "lower door" are not only lacking proper antecedent basis, but have no modifying article at all. The terms "the interior" and "the oven" lack proper antecedent basis.

The highly indefinite terms "it" and "its" are used throughout the claim: "...in which it is retracted...", "in which it is elevated," "its operative position." The use of the word "it" lends confusion as to what is referred to; for instance "in which it is retracted" could refer to "cabinet," "lateral walls," "front opening," "the oven," or any other preceding structural element. The term "its operative position" could refer to the first horizontal extension, the shelf, or any other preceding structural element.

Equally as indefinite is the phrase "the first one."

The term "a second extension" is indefinite without a recitation of "a first extension." It is also unclear whether "a parallel loading position" is distinct from the recitation of "...and loading positions."

Finally, examiner also notes that the first recitation of "rails" is followed by the numbers 14 and 15 in parenthesis, yet none of the figures depict a shelf arrangement which has both numbers. It is unclear whether the claim is directed toward an embodiment which is not shown.

The remaining claims depend from claim 1 and fail to cure the problems described above, and are thus indefinite for at least the same reasons. This is not presented as an exhaustive transcription of such problems; applicant has the burden of presenting claims in the proper format for examination and should thoroughly check the claims for similar problems. Please consult the MPEP, particularly sections 608 and 2173.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Shirai et al. (US 4637,373).

In light of the highly indefinite state of the claims, prior art cannot be applied without substantial speculation as to the scope of the invention. However, as tentatively understood by the examiner, the claims are directed toward an apparatus in which at least one shelf slides along various rails, and wherein the displacement of the shelf is actuated by the movement of the oven door. Such an apparatus is disclosed by Shirai et al. (see figs. 1-7).

Conclusion

5. Prior art made of record but not relied upon which is considered pertinent to applicant's disclosure is included in the attached Notice of References Cited.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW ST CLAIR whose telephone number is (571)270-3513. The examiner can normally be reached on Monday - Friday, 8 a.m. - 6 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve McAllister can be reached on 571-272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew St.Clair/
Examiner, Art Unit 3749

/Steven B. McAllister/
Supervisory Patent Examiner, Art Unit 3749